FEDERAL REGISTER

VOLUME 4 NUMBER 116

Washington, Friday, June 16, 1939

The President

EXECUTIVE ORDER

TRANSFERRING FROM THE DEPARTMENT OF AGRICULTURE TO THE DEPARTMENT OF COMMERCE CERTAIN LANDS AT SITKA, ALASKA, FOR USE AS A MAGNETIC AND SEISMOLOGICAL OBSERVATORY SITE BY THE BUREAU OF COAST AND GEODETIC SURVEY

WHEREAS by Executive order of August 12, 1898, certain lands in the Territory of Alaska were reserved and set apart as an agricultural experiment station for the use of the United States Department of Agriculture; and

WHEREAS the Department of Agriculture no longer requires the said lands for use as an experimental station and has abandoned such use of the lands; and

WHEREAS it appears that reservation of such lands for the use of the United States Coast and Geodetic Survey, Department of Commerce, as a magnetic and seismological observatory site would be in the public interest:

NOW, THEREFORE, by virtue of the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 569, 37 Stat. 497, the said Executive order of August 12, 1898, is hereby revoked, and the lands described therein are hereby reserved and set apart for the use of the United States Coast and Geodetic Survey, Department of Commerce, as a magnetic and seismological observatory site.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 14, 1939.

[No. 8168]

[F. R. Doc. 39-2089; Filed, June 15, 1939; 11:23 a. m.]

EXECUTIVE ORDER

PARTIAL REVOCATION OF EXECUTIVE ORDER NO. 6153 OF JUNE 3, 1933, WITHDRAWING PUBLIC LANDS

COLORADO

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, Executive Order No. 6153 of June 3, 1933, withdrawing public lands in Colorado pending a resurvey, is hereby revoked as to the following-described township:

Sixth Principal Meridian

T. 6 S., R. 80 W.

This order shall become effective upon the date of the official filing of the plat of the resurvey of the above-described township.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 14, 1939.

[No. 8169]

[F. R. Doc. 39-2090; Filed, June 15, 1939; 11:23 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF PLANT INDUSTRY

PART 201—REVISION OF REGULATION 7 OF THE REGULATIONS ISSUED PURSUANT TO THE FEDERAL SEED ACT UNDER AUTHORITY OF SECTION 1 OF THE FEDERAL SEED ACT OF AUGUST 24, 1912, AS AMENDED [1]

Regulation 7 (Sec. 201.008) of the regulations jointly issued by the Secretary of the Treasury and the Secretary of Agriculture, November 19, 1930, is hereby revised to read as follows:

[1] 37 Stat. 506; 7 U.S.C. 111.

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FEDERAL REGISTER

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REGULATION 7 (SEC. 201.008)—EXAMINATION OF SEEDS—DELIVERY IN BOND

After samples of seed offered for importation into the United States from any foreign country have been drawn, such seed shall be admitted into the commerce of the United States only after the seed has been found to be neither adulterated nor unfit for seeding purposes within the meaning of the act and to have been colored as required by regulation 8 (Sec. 201.009): *Provided, however,* That, if each and every container of such seed bears a sufficient mark of identification, collectors of customs may deliver to consignees shipments which have been sampled, pending examination and decision in the matter, upon the execution on the appropriate form of a customs single-entry or term bond, containing a condition for the redelivery of the seed, or any part thereof, upon demand of the collector of customs at any time, in such amount as is prescribed for such bonds in the customs regulations in force on the date of entry. Prior to being so admitted, the seed shall be kept intact and not tampered with in any way, or removed from the containers except under supervision as provided by regulation. The bond shall be filed with the collector of customs, who, in case of default, shall take appropriate action to effect the collection of liquidated damages equal to the invoice value of the entire shipment, plus the estimated duties thereon, if any.

Regulation 7 (Sec. 201.008) thus revised shall be effective on and after June 14, 1939.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[SEAL] H. MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 39-2081; Filed, June 14, 1939; 2:31 p. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49886]

NOTICE OF ADDITIONAL DATA TO BE INCLUDED ON INVOICES COVERING PLAIN LINENS [1]

To Collectors of Customs and Others Concerned:

With reference to article 274 (e) (2) of the Customs Regulations of 1937, as amended by T. D. 49426 [Sec. 6.1 (c)], customs invoices for plain linens are required to be accompanied by the following information in addition to all other information required by law and regulations:

(1) The customer's call number (if any).

(2) The manufacturer's name and the manufacturer's marks, numbers, or symbols under which the merchandise is sold in the home market.

(3) The exact width of the merchandise if in the piece, otherwise the size.

(4) If composed of cotton and other materials, state chief value first and give percentage (value) of each component. State also the finish of the fabric or article, i. e., "loom state," "bleached," "commercial or vat dyed."

(5) The actual number of threads contained in the fabric per square inch, in condition exported. Each thread is counted as one whether or not such thread contains two or more single strands of yarn twisted to make a complete thread. To illustrate, a cloth containing 100 two-ply yarns per square inch must be reported as 100 threads.

(6) The exact weight per square yard, in ounces.

(7) Whether "hand hemmed," "machine hemmed," "unhemmed," or "in piece."

Consular Form 324 is acceptable for furnishing the additional information required above. (Sec. 481 (a) (10), 46 Stat. 719; 19 U.S.C. 1481 (a) (10)).

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved: June 8, 1939.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 39-2082; Filed, June 14, 1939; 3:42 p. m.]

[1] This document affects 19 CFR 6.1 (c).

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

[Administrative Order No. 287]

PART 402—LOAN SERVICE

WITHDRAWN FORECLOSURES; EXCEPTIONS; TERMS OF PAYMENT

Amending Part 402 of Chapter IV, Title 24 of the Code of Federal Regulations.

The fourth paragraph of section 402.03-20.1 is repealed and the following is substituted therefor:

Whenever cases are withdrawn from foreclosure, the home owner shall execute Form 533 providing for a Special Deposits Account for the payment of future taxes. This requirement may be waived in cases where the entire delinquency together with all costs and expenses are paid up at the time of withdrawal and the Regional Manager considers the establishment of a Special Deposits Account unnecessary.

In cases withdrawn from foreclosure, it is the policy of the Corporation generally to reestablish the security on the same basis as existed prior to foreclosure. However, exceptions may be made where the proposal does not justify the reinstatement of a long period of redemption or where for legal or other reasons the Regional Manager considers it in the best interests of the Corporation to arrange for the acquisition of title by the Corporation prior to the completion of foreclosure and sale to the home owner or a third party on sales instrument.

The Regional Manager should forward to the Regional Counsel with the "Notice of Withdrawal" a statement of the outstanding indebtedness and the terms upon which it is to be repaid. The Regional Manager should generally prescribe the plan of payment and maturity of indebtedness which would have existed had foreclosure not been commenced. Where the Regional Manager makes an exception to this general rule, he shall not fix more liberal terms of payment than he is now or may hereafter be authorized to grant in the case of an extension if no foreclosure were

involved. In instances where sales instruments are substituted for lien instruments, the period of payment shall not exceed that prescribed for the sale of Corporation-owned property on sales instruments. In such cases the forms approved for use in the sale of Corporation-owned property shall be employed to close the transaction; the present loan number shall be retained and amended by the inclusion of "R" at the end thereof. The suffix "R" shall likewise be added to the loan number of any case of withdrawal heretofore where the original loan number was retained and title was acquired and sales instruments used.

(Effective June 15, 1939.)

(Above procedure promulgated by General Manager and General Counsel pursuant to authority vested in them by the Federal Home Loan Bank Board acting pursuant to Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a), (k).)

Promulgated by the General Manager and General Counsel of Home Owners' Loan Corporation.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 39-2092; Filed, June 15, 1939; 12:59 p. m.]

[Administrative Order No. 289]

PART 402—LOAN SERVICE

ITEMS INCLUDED

Amending Part 402 of Chapter IV, Title 24 of the Code of Federal Regulations.

Section 402.13–2 is amended to read as follows:

§ 402.13–2 Ordinarily, any such extension should be granted only for the payment of principal, including all advances previously made, or made in connection therewith, whether due or not. Extensions including delinquent interest and/or involving a concurrent advance for taxes should only be granted when the Regional Manager determines that the case involves special circumstances and the granting of an extension for the payment of such items would be in the best interests of the Corporation. In every case of extension it is a requirement that the home owner shall have executed a Form 533 establishing a special deposits account for the payment of taxes. In unusual cases, the Regional Manager may waive this requirement provided he has determined that heretofore the home owner has made prompt payment of all taxes as they came due, and analysis of his circumstances justifies the belief that he will continue in the future to promptly pay taxes when due. All sums included in the extension shall bear interest at the rate applicable to the original obligation. Advances to be made for repairs, reconditioning or insurance premiums should be handled as separate transactions and not as a part of the extension. Such transactions shall be completed before the extension is granted or handled subsequently as a separate transaction. Legal or appraisal, or other expenses incidental to the closing of the extension, shall either be collected at the time of closing or advanced and charged to the account of the home owner after the extension transaction is completed. All legal fees and expenses shall be incurred, approved and paid as provided in Part 406.

(Effective June 15, 1939.)

(Above procedure promulgated by General Manager and General Counsel pursuant to authority vested in them by the Federal Home Loan Bank Board acting pursuant to Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a), (k).)

Promulgated by the General Manager and General Counsel of Home Owners' Loan Corporation.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 39-2093; Filed, June 15, 1939; 12:59 p. m.]

PART 402—LOAN SERVICE

CONVERSION OF INSTALLMENT CONTRACTS INTO MORTGAGE ACCOUNTS

Amending Part 402 of Title 24 of the Code of Federal Regulations.

A new section designated as section 402.16 is added to read as follows:

§ 402.16 The General Manager, with the advice of the General Counsel, may authorize the delivery of a deed or other conveyance and the taking of a note or other obligation and a mortgage or other security instrument for the unpaid balance, (a) in cases where he determines that the purchaser or his successor in interest under an installment contract, lease with option to purchase or similar instrument has fulfilled the requirements thereof to such extent that he is entitled by the provisions thereof to such deed or other conveyance, and (b) in other cases where he determines that it is in the best interests of the Corporation to do so.

The authority vested in the General Manager by this Section may also be exercised by the Regional Manager, with the advice of the Regional Counsel, under procedure and limitations prescribed by the General Manager with the approval of the General Counsel.

The provisions of this section shall not apply to installment contracts, leases with option to purchase or similar instruments, under which the Corporation has received payment in full of the purchase price.

(Effective June 15, 1939.)

(Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132 as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a), (k))

Adopted by the Federal Home Loan Bank Board on May 26, 1939.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 39-2095; Filed, June 15, 1939; 1:00 p. m.]

[Administrative Order No. 290]

PART 402—LOAN SERVICE

CONVERSION OF INSTALLMENT CONTRACTS INTO MORTGAGE ACCOUNTS

Amending Part 402 of Chapter IV, Title 24 of the Code of Federal Regulations.

Two new sections designated as sections 402.16–1 and 402.16–2 are added to read as follows:

§ 402.16–1 Ordinarily the Corporation's title or other interest in properties sold under installment contracts, leases with option to purchase, or similar instruments will be conveyed and an obligation and security instrument accepted only where the purchaser or his successor in interest has requested such conveyance, has made payment of that portion of the purchase price required to be paid as a condition precedent to such conveyance, and has complied with all other covenants, terms and provisions of the agreement as to payment or otherwise.

The Corporation's title or other interest in such properties may also be conveyed, however, in cases in which the Regional Manager, with the advice of the Regional Counsel has determined that:

(a) The purchaser or his successor in interest has requested such conveyance, has made payment of the required portion of the purchase price, and all other terms and conditions of the installment contract, lease with option to purchase or similar instrument have been so nearly complied with that it is in the best interests of the Corporation to make such conveyance; or

(b) It is to the best interests of the Corporation that a conveyance be made and an obligation and security instrument taken as result of, or in connection with, changes in the forms and procedure employed by the Corporation in the sales of its acquired properties; or

(c) It is in the best interests of the Corporation, although the circumstances of the case are other than those described heretofore in this article; *Provided, however,* That the approval of the General Manager is obtained.

§ 402.16–2 The Loan Service Division shall not maintain records to determine when purchasers or their successors in interest have paid the required portions of the purchase price and have complied with all other terms and conditions of the instruments so as to entitle them to receive conveyances of the properties.

When any such party requests a conveyance or when it is determined to be

in the best interests of the Corporation to convey its interest in the property, the Control Supervisor shall request the purchaser or his successor in interest to execute request Form 196 in duplicate, unless such execution by him is waived by the Regional Manager with the advice of the Regional Counsel.

The Control Supervisor shall enter the necessary information upon Form 196 in any event and refer the case to the Analysis and Review Section, which Section shall submit the application with its recommendation through the Assistant Regional Manager in Charge of Loan Service to the Regional Manager.

If the Regional Manager with the advice of the Regional Counsel determines that the Corporation's interest in the property shall be conveyed and appropriate instruments, evidencing and securing any balance owing the Corporation be accepted, he shall direct such action on the reverse side of Form 196, forward to the Regional or State Counsel one copy of the form, a statement of the account, and such other title evidence, instruments, insurance policies and other information as the Regional or State Counsel may require for closing the transaction. Ordinarily conversion shall be made as of a cycle date and all accrued interest and matured principal due on the installment sales contract must be paid up to the date of conversion; however in any case where the Regional Manager determines it is in the best interest of the Corporation, conversion may be made as of another date and the amount due on the account included in the new instrument. The Regional Manager shall return one copy of the form to the Control Supervisor for his records.

If the Regional Manager disapproves the proposal he shall return both forms to the Control Supervisor with a memorandum setting forth the reasons for such disapproval. Cases requiring the approval of the General Manager shall be forwarded to the Home Office with the recommendation of the Regional Manager and the opinion of the Regional Counsel. When returned to the Regional Manager, such cases shall, if approved by the General Manager, be referred to the Regional or State Counsel for closing as heretofore provided.

(Effective June 15, 1939.)

(Above procedure promulgated by General Manager and General Counsel pursuant to authority vested in them by the Federal Home Loan Bank Board acting pursuant to Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a), (k).)

Promulgated by the General Manager and General Counsel of Home Owners' Loan Corporation.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 39-2091; Filed, June 15, 1939; 12:59 p. m.]

PART 402—LOAN SERVICE

SUSPENSION OR WITHDRAWAL OF FORECLOSURE

Amending Parts 402 and 406 of Title 24 of the Code of Federal Regulations.

Section 406.05 (1) and the third paragraph of section 402.03 (d) are amended to read as follows:

At any time prior to the acquisition of absolute title by the Corporation, the General Manager, with the advice of the General Counsel, may direct that foreclosure proceedings or negotiations for a deed in lieu of foreclosure be suspended or withdrawn and the loan or sales account reinstated on such terms and conditions as he may determine to be for the best interest of the Corporation. In connection with such withdrawal and reinstatement he may effect the cancelation of the old indebtedness and the taking of new loan or sales instruments. In connection therewith he may also direct the acquisition of title by the Corporation and the execution of installment contracts or other like sales instruments or deeds to home owners or to third parties, accepting appropriate security instruments. No suspension, withdrawal or reinstatement in such cases shall be made which would involve a loss to the Corporation. The authority herein granted may be exercised in any case where a notice of withdrawal has been issued, but on account of the lack of time or for other cause, the reinstatement has not been accomplished prior to the acquisition of absolute title. All cases handled under the authority of this resolution shall be classified as withdrawn foreclosures and not as sales. The authority herein vested in the General Manager may be exercised also by the Regional Manager, with the advice of the Regional Counsel, or by the State Manager, with the advice of the State Counsel, under procedure and limitations prescribed by the General Manager, with the approval of the General Counsel.

(Effective June 15, 1939.)

(Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132 as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a), (k).)

Adopted by the Federal Home Loan Bank Board on May 19, 1939.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 39-2097; Filed, June 15, 1939; 1:01 p. m.]

[Administrative Order No. 656]

PART 406—LEGAL

CONVERSION OF INSTALLMENT CONTRACTS INTO SECURITY INSTRUMENTS

Amending Part 406 of Chapter IV, Title 24 of the Code of Federal Regulations.

A new section designated as section 406.16–11 is added to read as follows:

§ 406.16–11 Conversion of installment contracts, leases with options to purchase and similar instruments into security instruments shall be consummated in accordance with the procedure set forth in Section 402.16–2 and the procedure, so far as applicable, set forth in Sections 406.16–1, 406.16–2, 406.16–6 through 406.16–10 and any deviations authorized by special administrative orders pursuant to Section 406.16. At the time of closing the transaction, the approved attorney or title company shall receive from the party taking title his copy of the installment contract or other instrument under which conveyance is made, unless the State Counsel determines otherwise, and shall collect from such party the sums due from him, including the fees and expenses, which he is to pay. If the approved attorney or Title Company finds that such party is unable to pay such fees and expenses they may be advanced by the Corporation and included in the principal of the note or bond and mortgage or other security instrument executed by such party or, if they cannot be so included, they may be charged to his account. A report of the settlement shall be made by the approved attorney or Title Company on a form approved for the purpose.

(Effective June 15, 1939.)

(Above procedure promulgated by General Manager and General Counsel pursuant to authority vested in them by the Federal Home Loan Bank Board acting pursuant to Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a), (k).)

Promulgated by the General Manager and General Counsel of Home Owners' Loan Corporation.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 39-2096; Filed, June 15, 1939; 1:00 p. m.]

[Administrative Order No. 747]

PART 407—TREASURY

CHANGE OF BILLING FORM

Amending Part 407 of Chapter IV, Title 24 of the Code of Federal Regulations.

The first paragraph of section 407.33–28 which reads as follows is revoked:

"Where the amount submitted by the debtor does not correspond with the amount stated on the billing form, the teller shall strike out on both halves of the form the amount billed prior to validation."

(Effective June 15, 1939.)

(Above procedure promulgated by the Treasurer, subject to the approval of the General Counsel, the General Manager, and the Budget Director, pursuant to authority vested in them by the Federal Home Loan Bank Board acting pursuant

to Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a), (k).)

Promulgated by the General Manager and General Counsel of Home Owners' Loan Corporation.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 39-2094; Filed, June 15, 1939; 1:00 p. m.]

TITLE 26—INTERNAL REVENUE
BUREAU OF INTERNAL REVENUE

[T. D. 4903]

INCOME TAX

PUBLIC SALARY TAX ACT OF 1939

Articles 22 (a)-2 and 116-2 of Regulations 101, as made applicable to the Internal Revenue Code by Treasury Decision 4885, amended

To Collectors of Internal Revenue and Others Concerned:

In order to conform Regulations 101 [1] (Part 9, Subpart H, Title 26, Code of Federal Regulations), as made applicable to the Internal Revenue Code (53 Stat., Part 1) by Treasury Decision 4885,[2] approved February 11, 1939 (Part 465, Subpart B, Title 26, Code of Federal Regulations), to the Public Salary Tax Act of 1939 (Public, No. 32, Seventy-sixth Congress, first session), such regulations are amended as follows:

1. The following is inserted immediately preceding article 22 (a)-1 (section 9.22 (a)-1, Title 26, Code of Federal Regulations), as made applicable to the Internal Revenue Code:

Section 1 of the Public Salary Tax Act of 1939 provides:

SECTION 1. Section 22 (a) of the Internal Revenue Code (relating to the definition of "gross income") is amended by inserting after the words "compensation for personal service" the following: "including personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing."

Section 3 of the Public Salary Tax Act of 1939 provides:

SEC. 3. Section 22 (a) of the Internal Revenue Code is amended by adding at the end thereof a new sentence to read as follows: "In the case of judges of courts of the United States who took office on or before June 6, 1932, the compensation received as such shall be included in gross income."

Section 210 of the Public Salary Tax Act of 1939 provides:

SEC. 210. For the purpose of this Act, the term "officer or employee" includes a member of a legislative body and a judge or officer of a court.

2. Article 22 (a)-2 (section 9.22 (a)-2, Title 26, Code of Federal Regulations), as made applicable to the Internal Revenue Code, is amended by inserting before the last sentence thereof the following new sentence:

"As used in this article the term 'Federal officers and employees' includes all judges of courts of the United States irrespective of when they took office."

3. The following is inserted immediately preceding article 116-1 (section 9.116-1, Title 26, Code of Federal Regulations), as made applicable to the Internal Revenue Code:

Section 2 of the Public Salary Tax Act of 1939 provides:

SEC. 2. Section 116 (b) of the Internal Revenue Code (exempting compensation of teachers in Alaska and Hawaii from income tax) is repealed.

4. Article 116-2 (section 9.116-2, Title 26, Code of Federal Regulations), as made applicable to the Internal Revenue Code, is amended to read as follows:

"ART. 116-2. *Compensation of State officers and employees.* Compensation received for services rendered as an officer or employee of a State or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing, is to be included in gross income, regardless of the nature of the office or employment. As used in this article the term 'officer or employee' includes a member of a legislative body and a judge or officer of a court."

This Treasury Decision is effective only for taxable years beginning after December 31, 1938. For provisions of the Public Salary Tax Act of 1939 which relate to taxable years beginning prior to January 1, 1939, see Title II of such Act.

(This Treasury Decision is prescribed pursuant to the following sections of law: Sections 22 and 116 of the Internal Revenue Code (53 Stat., Part 1); sections 1, 2, 3, and 210 of the Public Salary Tax Act of 1939 (Public, No. 32, Seventy-sixth Congress, first session); and section 62 of the Internal Revenue Code (53 Stat., Part 1).)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 13, 1939.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 39-2086; Filed, June 15, 1939; 10:07 a. m.]

[T. D. 4904]

INCOME TAX

REFUNDS UNDER SECTION 203 OF THE PUBLIC SALARY TAX ACT OF 1939*†

To Collectors of Internal Revenue and Others Concerned:

§ 18.0 *Introductory.* (a) Sections 203, 204, 205, 206, and 210 of the Public Salary Tax Act of 1939 (Public, No. 32, Seventy-sixth Congress, first session; IRB 1939-17, 18), which was approved by the President on April 12, 1939, provide:

SEC. 203. Any amount of income tax (including interest, additions to tax, and additional amounts) collected on, before, or after the date of the enactment of this Act for any taxable year beginning prior to January 1, 1939, to the extent attributable to compensation for personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing, shall be credited or refunded in the same manner as in the case of an income tax erroneously collected, if claim for refund with respect thereto is filed after January 18, 1939, and the Commissioner of Internal Revenue, under regulations prescribed by him with the approval of the Secretary of the Treasury, finds that disallowance of such claim would result in the application of the doctrines in the cases of Helvering against Therrel (303 U. S. 218), Helvering against Gerhardt (304 U. S. 405), and Graves et al. against New York ex rel O'Keefe, decided March 27, 1939, extending the classes of officers and employees subject to Federal taxation.

SEC. 204. Neither section 201 nor section 203 shall apply in any case where the claim for refund, or the institution of the suit, or the filing of the petition with the Board, was, at the time filed or begun, barred by the statute of limitations properly applicable thereto.

SEC. 205. Compensation shall not be considered as compensation within the meaning of sections 201, 202, and 203 to the extent that it is paid directly or indirectly by the United States or any agency or instrumentality thereof.

SEC. 206. The terms used in this Act shall have the same meaning as when used in Chapter I of the Internal Revenue Code.

SEC. 210. For the purposes of this Act, the term "officer or employee" includes a member of a legislative body and a judge or officer of a court.

(b) In *Helvering* v. *Therrell*, (1938) 303 U. S. 218 (Ct. D. 1316, C. B. 1938-1, 243), the Supreme Court held that compensation paid to individuals acting as liquidators and attorneys for insolvent State banking and insurance corporations was subject to Federal income tax where such compensation was paid from corporate assets and not from funds belonging to the State. In *Helvering* v. *Gerhardt*, (1938) 304 U. S. 405 (Ct. D. 1343, C. B. 1938-1, 246), the Court held that compensation of employees of the Port of New York Authority, a bi-state corporation created by a compact between New York and New Jersey and approved by Congress, was subject to Federal income tax. In *Graves et al.* v. *New York ex rel O'Keefe*, (1939) 59 S. Ct. 595 (Ct. D. 1390, I. R. B. 1939-15, 4) the Court overruled *Collector* v. *Day*, (11 Wall. 113), insofar as that case recognized an implied constitutional immunity from Federal income taxation of the compensation of officers and employees of State and local governments or their instrumentalities. Each of those decisions extended the classes of State and local officers and employees subject to Federal income taxation on their compensation. Under prior Supreme Court decisions the taxability of compensation of a State or local officer or employee depended upon the nature of his office or employment, *i. e.*, whether he was en-

[1] 4 F.R. 616, 700, 802 DI.
[2] 4 F.R. 879 DI.

*Section 18.0 to section 18.3 issued under the authority contained in section 203 of the Public Salary Tax Act of 1939 (Public, No. 32, Seventy-sixth Congress, first session).

†The source of sections 18.0 to 18.3 is Treasury Decision 4904, approved June 13, 1939.

gaged in the exercise of an essential governmental function or a proprietary function. (See *Helvering* v. *Powers, et al.*, (1934) 293 U. S. 214 (Ct. D. 900, C. B. XIII–2, 213) and *Brush* v. *Commissioner*, (1937) 300 U. S. 352 (Ct. D. 1212, C. B. 1937–1, 217).)

Pursuant to the authority contained in the above-quoted provisions of the Public Salary Tax Act of 1939, the following regulations are prescribed:*†

§ 18.1 *Definitions.* As used in these regulations—

(1) The term "Act" means the Public Salary Tax Act of 1939.

(2) The term "State employee" means an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of one or more States or political subdivisions; and includes a member of a State or local legislative body and a judge or officer of a State or local court.

(3) The term "compensation" does not include any amount paid directly or indirectly by the United States or any agency or instrumentality thereof.

(4) The term "claim" means a claim for refund timely filed within the period of limitations provided by the applicable revenue law.*†

§ 18.2 *Claims filed after January 18, 1939.* Section 203 of the Act describes the circumstances under which a claim filed after January 18, 1939 by a State employee for refund of tax attributable to his compensation for personal services as a State employee for any taxable year beginning prior to January 1, 1939 shall be allowed. If, under these regulations, the Commissioner of Internal Revenue finds that a disallowance of such claim would result in the application of the doctrines announced in *Helvering* v. *Therrell*, (1938) 303 U. S. 218 (Ct. D. 1316, C. B. 1938–1, 243), *Helvering* v. *Gerhardt*, (1938) 304 U. S. 405 (Ct. D. 1343, C. B. 1938–1, 246), and *Graves et al.* v. *New York ex rel O'Keefe*, (1939) 59 S. Ct. 595 (Ct. D. 1390, I. R. B. 1939–15, 4), extending the classes of State employees subject to Federal income tax, then such claim shall be allowed. If, under Supreme Court decisions rendered prior to 1938 on the question of the constitutional immunity of compensation of State employees from Federal income taxation, a disallowance of such claim would be proper, then the claim shall be disallowed; but if under such decisions a disallowance of such claim would not be proper, then the claim shall be allowed. The allowance of a claim under section 203 of the Act will, therefore, be made if, under these regulations, the Commissioner of Internal Revenue finds that such compensation was for personal services rendered in the exercise of an essential governmental function as distinguished from a proprietary function.

A claim under section 203 of the Act shall not be disallowed solely because of the provisions of section 322 (c) of the Revenue Act of 1938 and corresponding sections of prior revenue acts relating to the prohibition against the allowance of a credit or refund.

Amounts properly refundable under section 203 of the Act include interest, additions to tax, and additional amounts paid with respect to the tax. Such amounts shall be credited or refunded in the same manner as in the case of an erroneously collected income tax.

Section 203 of the Act has no application to a case in which a State employee files a claim prior to January 19, 1939 for refund of tax attributable to his compensation for any taxable year beginning prior to January 1, 1939.*†

SEC. 18.3. *Application of section 203.* The application of section 203 of the Act may be illustrated as follows:

Claims shall be allowed if filed, for example, by State public-school teachers, receivers and masters appointed by State courts, liquidators of banks and insurance companies taken over by a State, and officers and employees of a city engaged in maintenance, operation or regulation of public parks and playgrounds, or of water supply.

Claims shall not be allowed if filed, for example, by State liquor store employees or municipal railway employees.*†

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 13, 1939.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 39–2087; Filed, June 15, 1939; 10:07 a. m.]

TITLE 36—PARKS AND FORESTS

NATIONAL PARK SERVICE

ORDER DESIGNATING THE OLD PHILADELPHIA CUSTOM HOUSE, PENNSYLVANIA, AS A NATIONAL HISTORIC SITE

Whereas the Congress of the United States has declared it to be a national policy to preserve for the public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States, and

Whereas the Old Custom House in the City of Philadelphia, by reason of its relationship to the history of the United States, has been declared by the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments to be a historic site of national significance, and

Whereas title to the above-mentioned building, together with the land upon which it is situated, is vested in the United States:

Now, therefore, I, Harold L. Ickes, Secretary of the Interior, under and by virtue of the authority conferred upon the Secretary of the Interior by section 2 of the Act of Congress approved August 21, 1935 (49 Stat. 666), do hereby designate the following-described lands, with the structures thereon, to be a national historic site, having the name "Old Philadelphia Custom House":

Beginning at a point on the south street line of Chestnut Street, Philadelphia, 141′4½″ easterly from the southeast corner of Chestnut and Fifth Streets; thence along the south line of Chestnut Street easterly 150′9¾″ to a brass plug; thence at right angle southerly 3′8″; thence at right angle easterly 1″; thence at right angle southerly 58′00″; thence at right angle easterly 0′2½″; thence at right angle southerly 12′2″; thence at right angle easterly 0′2½″; thence at right angle southerly 10′1″; thence at right angle easterly 7′7½″; thence at right angle southerly 136′2½″ to a brass plug in the north line of Sansom Street; thence westerly with the north line of Sansom Street 157′6⅛″ to a cross cut on limestone; thence northerly 220′3⅞″ to point of beginning, as shown on a "Plan of Property" made by Wm. H. H. Ogden, Jr., Surveyor and Regulator—Third District—February 11, 1938.

The administration, protection, and development of this national historic site shall be exercised by the National Park Service in accordance with the provisions of the Act of August 21, 1935, supra.

Warning is expressly given to all unauthorized persons not to appropriate, injure, destroy, deface or remove any feature of this historic site.

In witness whereof, I have hereunto set my hand and caused the official seal of the Department of the Interior to be affixed, in the City of Washington, this 26th day of May 1939.

[SEAL] HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 39–2084; Filed, June 15, 1939; 10:01 a. m.]

ORDER DESIGNATING THE SITE OF FEDERAL HALL, NEW YORK, AS A NATIONAL HISTORIC SITE

Whereas the Congress of the United States has declared it to be a national policy to preserve for the public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States, and

Whereas the land in the City of New York occupied by the Sub-Treasury Building has been declared by the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments to be a historic site of national significance, as the site formerly occupied by Federal Hall where George Washington was inaugurated as the first President of the United States, and

Whereas title to the above-mentioned land and building is vested in the United States:

Now, therefore, I, Harold L. Ickes, Secretary of the Interior, under and by virtue of the authority conferred upon the Secretary of the Interior by section 2

of the Act of Congress approved August 21, 1935 (49 Stat. 666), do hereby designate the following-described lands, with the structures thereon, to be a national historic site, having the name "Federal Hall Memorial":

Beginning at the southeast corner of Nassau and Pine Streets in the City of New York; thence southerly with the east line of Nassau Street 193.74'; thence at right angles easterly 5.17'; thence at right angles southerly 2.70'; thence at right angles easterly 1.5'; thence at right angles southerly 3.19' to the outside line of steps; thence at right angles easterly, with outside line of steps 36.34'; thence at right angles southerly 0.25' to southwest corner of statue; thence with south line of statue easterly 14.62' to southeast corner of statue; thence northerly with east line of statue 0.25' to outside line of steps; thence easterly with outside line of steps 36.34' to outside corner of steps; thence northerly with outside line of steps 0.14' to north line of Wall Street; thence easterly with north line of Wall Street approximately 13.0' to the property line of the United States Assay Office; thence northerly, with an interior angle of 87°40', 195.18' to the south line of Pine Street; thence westerly, with an interior angle of 92°59', 8.5'; thence at right angles northerly 4.0', thence at right angles westerly 90.33'; thence at right angles southerly 2.65'; thence at right angles westerly 5.10' to point of beginning, according to map "Plat of U. S. Property at Sub-Treasury and Assay Office, New York, N. Y. from surveys, &c, Revised May 1914."

The administration, protection, and development of this national historic site shall be exercised by the National Park Service in accordance with the provisions of the Act of August 21, 1935, supra.

Warning is expressly given to all unauthorized persons not to appropriate, injure, destroy, deface or remove any feature of this historic site.

In witness whereof, I have hereunto set my hand and caused the official seal of the Department of the Interior to be affixed, in the City of Washington, this 26 day of May 1939.

[SEAL] HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 39-2085; Filed, June 15, 1939; 10:01 a. m.]

TITLE 46—SHIPPING

UNITED STATES MARITIME COMMISSION

[General Order No. 30]

REGULATIONS PRESCRIBING METHOD OF DETERMINING PROFIT IN CONNECTION WITH CONTRACTS AND SUBCONTRACTS FOR THE CONSTRUCTION, RECONDITIONING, OR RECONSTRUCTION OF SHIPS

At a regular session of the United States Maritime Commission held at its office in Washington, D. C., on the 4th day of May 1939.

The United States Maritime Commission acting pursuant to the authority granted by the Merchant Marine Act, 1936, as amended, particularly Section 505 of Title V thereof, hereby adopts the following order, effective forthwith.

Ordered: That the Commission hereby adopts the "Regulations Prescribing Method of Determining Profit in Connection With Contracts and Subcontracts for the Construction, Reconditioning, or Reconstruction of Ships for the United States Maritime Commission" in the form annexed hereto, and that the determination of profit under contracts and subcontracts for the construction, reconditioning, or reconstruction of vessels, pursuant to the provisions of the Merchant Marine Act, 1936, as amended, and the procedure in connection therewith, shall be in accordance with the provisions of said regulations.

By order of the United States Maritime Commission.

[SEAL] W. C. PEET, Jr.,
Secretary.

CONTENTS

The following provisions of the Merchant Marine Act, 1936, as amended are here quoted for the convenience and information of contractors and subcontractors: [1]

[1] 49 Stat. 1985, ch. 858, approved June 29, 1936. As amended by Public No. 705 (H. R. 10315), 75th Cong., 3d sess., approved June 23, 1938, and other acts.

[*Here follows, in the original document, the text of Sec. 505 (b) and (c) and Sec. 703 (b) of the Merchant Marine Act, 1936, as amended.*]

SECTION 1—GENERAL

§ 1.1 The following regulations are hereby prescribed as setting forth the method for the determination of profit in connection with contracts and subcontracts for the construction, reconditioning and reconstruction of ships for the United States Maritime Commission. These regulations are not applicable to ordinary ship repairs.

§ 1.2 It is the intent that these regulations shall be so applied that there shall be in each case a fair and equitable determination of profit consistent with sound accounting practice and with the specific requirements of the Act.

§ 1.3 The Commission may from time to time supplement or amend these regulations, as it shall deem necessary or appropriate to the carrying out of its duties and authority under the Act, and to the correct determination of profit in accordance with the provisions of the Act.

§ 1.4 The acceptance by the Commission or by its agent or representative of any statement or certificate shall not constitute a waiver by the Commission of its right to examine the books, files, and records of the contractor or subcontractor, if it shall deem such examination to be necessary or appropriate to a proper finding with respect to such contractor's or subcontractor's profit.

§ 1.5 Questions arising hereunder or with respect to the accounting methods or details of profit determination of contractors or subcontractors, if not otherwise disposed of, should be referred to the Commission for determination.

§ 1.6 Any contractor or subcontractor being aggrieved with respect to any matters in connection with the audit of his accounts or the determination of profit under his contract or subcontract shall be entitled to a hearing under such procedure as the Commission shall deem appropriate.

§ 1.7 Upon final accounting with respect to profit under any contract or subcontract subject to the provisions of the Act the Commission will examine the sworn report of the contractor or subcontractor, together with reports of audit and any other related data. If the Commission's determination of profit shall differ from that reported the contractor or subcontractor will be furnished with notice of the Commission's proposed findings and shall be heard with respect thereto, provided he so requests within thirty days after such notice.

§ 1.8 Hearings under these regulations shall be before the Commission or such person or persons as the Commission may designate.

SECTION 2—DEFINITIONS

§ 2.0 The following meanings shall be given to the words and terms employed in these Regulations:

§ 2.1 *Act* means the Merchant Marine Act, 1936 (49 Stat. 1985) as amended.

§ 2.2 *Commission* means the United States Maritime Commission.

§ 2.3

§ 2.31 *Contract* means an agreement containing the provisions required by Section 505 (b) of the Act, and made directly with the Commission for the construction, manufacture, reconditioning or reconstruction of any vessel or portion thereof.

§ 2.32 *Contractor* means any person entering into a direct contract with the Commission.

§ 2.33 *Subcontract* means any agreement with a contractor for the construction of a complete vessel or portion thereof or for the manufacture or furnishing of any materials or goods or the rendering of any services directly for the construction thereof, but not including services rendered generally to the contractor in connection with the maintenance or operation of the shipyard and not including such intangibles as insurance, surety, expert consultation and the like, or agreements for the furnishing of drawings, plans and other technical information or data.

§ 2.34 *Subcontractor* means any person entering into a subcontract with a contractor.

§ 2.35 *Contract price* means the amount specified in the contract or subcontract to be received by the contractor or subcontractor for the performance of the contract or subcontract, as modified by any discounts, allowances, price adjustments, changes, performance premiums or other items affecting such amount; provided that the "contract price" will not be deemed to be decreased by reason of any damages payable by the contractor or subcontractor whether payment thereof be effected directly or by deduction from sums otherwise payable to the contractor or subcontractor.

SECTION 3—SUBCONTRACTS

§ 3.1 The contractor shall make available to the Commission's auditors promptly and at all times all subcontracts and shall furnish copies of such subcontracts in excess of $10,000 as may be requested.

§ 3.2

§ 3.21 Subcontracts subject to the provisions of items (1), (2), (3) and (4) of Section 505 (b) of the Act are herein referred to as "restricted" subcontracts.

§ 3.22 A subcontract that is not clearly of such a character as to be "unrestricted" will be deemed to be "restricted." Cases which do not appear to be covered by the principles herein stated, or where there is any uncertainty as to whether they are "restricted" or "unrestricted" shall be referred to the Commission; such reference shall be through the resident auditor if there be one stationed at the contractor's plant.

§ 3.23 Any subcontract involving an amount in excess of $10,000 is "restricted," except those specifically designated in this Section as "unrestricted" and those which may be so designated from time to time by the Commission.

§ 3.24 One or more agreements which would be deemed a single subcontract if related to a single vessel shall be deemed a single subcontract if related to two or more vessels covered by contracts executed under the circumstances described in Section 5 of these regulations.

§ 3.25 Any series of subcontracts made with a subcontractor for items of a like general class if related to a single vessel or to two or more vessels covered by prime contracts executed under the circumstances described in Section 5 of these regulations shall be deemed *prima facie* to be a single subcontract, and restricted if in excess of $10,000: *Provided*, That, if it be shown to the satisfaction of the Commission that a bona fide new offer and acceptance is involved in each subcontract of such series and that no subdivision or subcontract has been made for the purpose of evading the provisions of the Act, such subcontracts shall be deemed to be separate subcontracts and "unrestricted" if not in excess of $10,000.

§ 3.26 Purchase orders or other agreements for the furnishing of replenishments of the contractor's general stores and relating to materials or commodities usable by the contractor for the general performance of work in his plant and in practice so used, without being specially destined for use on a particular contract or group of contracts, are "unrestricted."

§ 3.27 Subcontracts for scientific equipment used for communication and navigation are "unrestricted" when such subcontracts are so designated by the Commission, but in the absence of such specific designation are "restricted" if in excess of $10,000. Designation of such a subcontract as "unrestricted" under a particular contract does not imply designation under any other contract. Contractors may submit to the Commission for determination under each contract the question as to whether a subcontract for such equipment is "restricted" or is designated as "unrestricted."

§ 3.3

§ 3.31 All purchase orders or other instruments embodying subcontracts which are not clearly "unrestricted" should bear upon their face or have included in the terms to which such agreement is subject a statement to the effect that the order or agreement is subject to the provisions of Section 505 (b) of the Merchant Marine Act, 1936, as amended. It is recommended that such statement be prominently printed upon all applicable purchase orders or that an appropriate rubber stamp legend be used. Failure of a contractor to notify a subcontractor as to the applicability of the Act shall not operate to relieve the subcontractor with respect to such applicability.

SECTION 4—BOOKS AND RECORDS

§ 4.1

§ 4.11 Contractors and subcontractors subject to the provisions of these regula-

tions should keep their books in such manner and conforming to such principles as accord with sound accounting practice and consistently adhere thereto. In cases where a diversified line of operations, commodities, products or services is carried on or dealt in, the books should clearly distinguish between such several lines.

§ 4.12 A contractor or subcontractor having in effect a system of determining costs conforming to sound accounting practice, fully responsive to the particular conditions prevailing at his shipyard or plant and in his business, consistently followed, and yielding adequate accounting information for the purposes hereof may base his statement of profit thereon subject to such adjustments as are necessary to conform to these regulations.

§ 4.13 Should it be found that improper or inadequate accounting methods have been or are being followed, the Commission may require the contractor or subcontractor to restate his accounts or otherwise satisfactorily account for the profit under his contract or subcontract so as to accord with sound accounting practice and these regulations.

§ 4.14 If a contractor or subcontractor shall be found not to have kept his books and records in such manner that a proper determination of profit in accordance with sound accounting practice and these regulations can be made therefrom or shall have failed to retain any books or records essential to compliance with the provisions of the Act or of these regulations pertinent thereto, the Commission will allow as cost of performance only such charges as are shown by the contractor or subcontractor on evidence satisfactory to the Commission to have been properly incurred in the performance of such contract or subcontract, and the profit shall be deemed to be the difference between the contract price received by such contractor or subcontractor and the total of such charges.

§ 4.15 A shipbuilder upon entering into a contract with the Commission should submit promptly to the Commission a full statement of the principles and methods pursued by him in his accounting, with copies of related forms, and should facilitate such review thereof as the Commission may deem appropriate, but approval of the contractor's accounting methods shall not preclude the Commission with respect to any steps it may later find to be necessary to the proper determination of shipbuilder's profit consistently with the principles herein prescribed.

SECTION 5—ALLOCATION OF PROFIT ON SISTER-SHIP CONTRACTS

Where two or more vessels are constructed in the same shipyard by the same contractor under separate contracts pursuant to the same invitation for bids, or the circumstances are otherwise such that so far as relates to the construction of such vessels, the group of contracts constitutes, in the opinion of the Commission, a single undertaking, and the work of construction is prosecuted substantially as a single undertaking, and the contractor upon entering upon such work of construction shall have notified the Commission that the work will be so prosecuted, the profit or loss with respect to each such contract shall be determined as that amount equal to the total profit or loss resulting from performance of the group of contracts divided by the number of such vessels, subject to adjustments for changes in plans and specifications not common to the group, for costs incurred because of guarantees and for other items peculiar to the individual contracts.

SECTION 6—COMPLETION DATES

§ 6.1 For the purpose of fixing the taxable year within which, for accounting under Section 505 (b) (2) of the Act, a *contract* for the construction, reconditioning or reconstruction of a vessel shall be deemed to have been completed, the date of completion of the contract, unless otherwise determined thereby, shall be deemed to be the date upon which the period of guarantee prescribed by the contract expires, or if no period of guarantee has been prescribed, then the date of delivery of the vessel by the contractor and its acceptance by the Commission.

§ 6.2 For the purpose of Section 505 (b) (2) of the Act the date of completion of a *subcontract*, unless otherwise determined thereby, shall be deemed to be the date upon which any period of guarantee prescribed by such subcontract expires, or if no period of guarantee has been prescribed, then the date of delivery of the last material or performance of the last service under such subcontract prior to the delivery and acceptance of the vessel.

SECTION 7—PROFIT

§ 7.1 For the purposes of Section 505 of the Act and these regulations, "Profit" shall be the difference between the contract price and the contractor's complete cost of performing the contract determined in accordance with sound accounting practice, subject to the following specific provisions:

§ 7.2 *Exclusions.*

§ 7.21 The following items and categories shall not be taken into account in determining profit hereunder:

Income from investments.

Income from royalties.

Fines and penalties incurred for violation of law.

Capital gains and losses (except as provided under heading "Depreciation").

Other nonoperating income and expense except such as may be determined as properly to be taken into account.

Losses from bad debts.

Losses on other contracts.

Premiums for life insurance on lives of officers.

Amortization of asset appreciation.

§ 7.22 Excess profits repayable to the United States under any contract, whether under the Merchant Marine Act or otherwise, shall not be taken into account.

§ 7.23 *Unreasonable charges.* Excessive or unreasonable payments, whether in cash, stock, or other property shall not be taken into account. In computing the shipbuilder's profit, no salary of more than $25,000 per year to any individual shall be considered as a part of the cost of building the ship or group of ships. All subcontracts, regardless of the amount involved, are subject to the provision that the Commission shall scrutinize construction costs to determine that they are fair, just, and not in excess of a reasonable market price for commodities or goods or services purchased or charged.

§ 7.24 Damages payable by the contractor to the Commission, whether such payment be effected directly or by deduction from sums otherwise payable by the Commission to the contractor, shall not be taken into account. The same principle shall apply to subcontracts.

§ 7.25 *General contingency or other reserves.* Charges resulting in the creation or increase of reserves for general contingencies or other reserves which are not properly chargeable to current operations shall not be taken into account.

§ 7.26 Expenses incurred incident to corporate organization or reorganization or to the issuance of capital stock, bonds, or other corporate securities, including legal and accounting fees, taxes on the issue or transfer of securities, discounts on securities sold, bankers' commissions, or other like financial costs, shall not be taken into account.

§ 7.3 *Inclusions.* The following items and categories may be taken into account in determining profit hereunder:

§ 7.31 Bonuses paid to employees in pursuance of a regularly established and properly administered incentive bonus system may, subject to the limitations of the act and these regulations, (and in particular section 723 hereof), be taken into account provided the aggregate compensation paid to each individual is reasonable and appropriate to services actually rendered in the regular course of business.

§ 7.32 Bidding expense is allowable as a part of overhead, subject to proper distribution upon an equitable basis, but bidding expense as a direct charge against a Commission contract will be allowable only if the contractor shall show to the satisfaction of the Commission that such direct charge is a proper one.

§ 7.33 Employees welfare expense is allowable as a part of overhead, subject

to proper distribution, provided the contractor shall, if required, show the reasonableness thereof to the satisfaction of the Commission.

§ 7.34 Employer's payments to unemployment, old age and social security funds (Federal and State).

§ 7.35 Pensions and retirement payments to employees and payments made into trust funds for pension and retirement purposes, provided such trust funds are alienated from the contractor's ownership.

§ 7.36 *Insurance.*

§ 7.361 Monies paid into State funds for compensation insurance, and net premiums paid or accrued for payment to insurance companies for insurance of risks not found by the Commission to be unusual or excessive coverage or inconsistent with reasonable and prudent business practice.

§ 7.362 If the contractor assumes his own insurable risks (a) for compensation payable to employees for injuries received in the performance of their duties, or (b) for unemployment risks in States where insurance is required, or (c) for other risks not found by the Commission to be an excessive or unusual coverage or inconsistent with reasonable and prudent business practice, there may be taken into account the charges set up for such self-insurance under a system of accounting regularly and consistently employed by the contractor, at rates not exceeding the lawful or approved rates of insurance companies for such insurance reduced by amounts representing the acquisition cost in such companies and after giving effect to any credits for safety provisions, experience, etc., to which the contractor would be entitled in determining such rates, but losses actually sustained must be charged only to the reserves created by such self-insurance charges.

§ 7.363 If the contractor assumes his own insurable risks and does not make current charges therefor in the manner contemplated by Section 7.362 hereof, there may be taken into account, through overhead or by such other equitable means of distribution as the Commission shall approve, losses sustained during the performance of the contract arising from such risks.

§ 7.364 If the contractor assumes his own insurable risks and his practice with respect to charges therefor is not covered by the principles set forth in the foregoing sections 7.361, 7.362 or 7.363, the contractor shall submit the matter to the Commission for determination at the earliest practicable date after execution of the contract, and such charges shall be taken into account in such manner as the Commission shall determine.

§ 7.4 *Items subject to qualification.* The following items and categories may or may not be taken into account as per the following qualifications:

§ 7.41 *Interest.* Interest earned or paid or accrued for payment is not to be taken into account except that interest on bank loans incurred for the purpose of discounting bills or for current working funds and maturing not later than 90 days after delivery of the last vessel being constructed by the contractor under a Commission contract may be taken into account: *Provided,* that interest on loans for current working funds shall not be taken into account unless the contractor shall show to the satisfaction of the Commission the necessity of any such loans.

§ 7.42 *Discounts* of all kinds, including trade discounts, cash discounts, special allowances, etc., must be taken into account in such manner that the effect upon the accounting in the determination of profit is the effect of the net prices actually paid. Discounts taken on material bills may be deducted from the purchase price in charging to inventory or to the contract, or the discounts may be accounted for by distributing discounts earned as a credit item in the overhead, or by a separate computation of net material cost or by such other means as may accord with the contractor's accounting practice and this requirement.

§ 7.43 *Entertainment expense* may not be taken into account by the contractor unless it be shown to the satisfaction of the Commission to have been necessarily and properly incurred, but minor expense necessary to the conduct of the contractor's business, as for example, lunch cost of persons visiting the shipyard or plant on business, and customary expense incidental to launching ceremonies and not found to be excessive may be allowed.

§ 7.44 *Donations* may not be taken into account except to the extent that necessary service is rendered to the contractor by the recipient, as for example, donations to a local hospital serving the contractor, or that local general custom renders any such donation a necessary and proper business expense, as for example donations to the Community Chest.

§ 7.45 *Dues and memberships* in regular trade associations and technical societies are in general allowable if approved by the Commission but other dues and memberships may not be taken into account. Club bills for rooms, meals, etc., which if incurred at a hotel would be allowable as ordinary traveling expense, may be taken into account.

§ 7.46 *Legal and accounting fees in connection with the prosecution of claims against the United States* (including income tax matters) may not be taken into account, but reasonable legal and accounting fees, other than contingent fees, properly incurred by the contractor or subcontractor in litigation of claims against the United States under a contract with the Commission or a subcontract under a contract with the Commission, in cases where by adjudication or settlement the validity of the contractor's or subcontractor's claim is established, may be taken into account.

§ 7.47 *Proper and reasonable fees of transfer agents and registrars* of stock or other securities and trustees under mortgage or similar indentures regularly employed in and necessary to the normal current operation of the business may be taken into account.

§ 7.48 *Taxes.* Income and excess profits taxes and surtaxes whether federal, state or other may not be taken into account. Franchise and excise taxes, property taxes (except taxes on property held in reserve or for investment, or for other extraneous purposes), social security taxes and the like (not including payments deducted from or chargeable to employees or officers) and capital stock taxes other than taxes upon the issue or transfer of securities may be taken into account. In the case of state income taxes payable upon alternative bases, the portion thereof, if any, deemed to be franchise or excise tax shall be determined to the satisfaction of the Commission.

§ 7.5 *Direct charges.* Costs of builder's risk insurance, contract performance and payment bonds, royalties, outside professional services, inspection, etc., which are incurred on account of a particular contract or group of contracts may be charged directly thereto provided that such method is consistently followed and that no similar charges on account of other work are made through overhead in such manner as to prorate any part thereof inequitably to a Commission contract.

§ 7.6 *Direct labor.* It is preferable that direct labor be taken into account upon the basis of the individual rates actually paid. Where the contractor follows consistently a method of accounting for direct labor on a productive hour basis at average rates or employs other approximations to reduce clerical work, such method may be allowed provided the contractor shall show to the satisfaction of the Commission that substantial accuracy is attained thereby. Compensation paid to leading men, quartermen and foremen whose time can be accurately allocated to specific work may, and preferably should be accounted for as direct labor, but an arbitrary allocation of supervisory pay roll or of any part thereof to "direct labor" will be allowed only if and to the extent that it is shown to the satisfaction of the Commission to be conducive to an accurate determination of cost. Overtime, production bonuses, premiums and other labor incentive payments to employees whose time is accounted for as direct labor are preferably to be included as direct labor but if charged in whole or in part to overhead the method of taking such charges into account must be such that no part of such charges incurred by reason of other work is inequitably borne by Commission contracts.

§7.7 *Material.* The prices at which materials are charged are subject to the requirement of the Act that they shall be "fair, just, and not in excess of a rea-

sonable market price." Prices paid to any supplier associated or affiliated with the contractor or subcontractor will be scrutinized in this connection. All material, including fittings, parts, auxiliaries, etc., must be taken into account at prices not in excess of the net cost thereof (as to requirement with respect to accounting for discounts, see Section 7.42), but materials purchased for and drawn from general stores may be priced by any recognized method of pricing stores withdrawals conforming to sound accounting practice and consistently followed. The net effect of any adjustments related to inventory accounts shall be taken into account to the extent that the propriety of such adjustments is established to the satisfaction of the Commission, or that such adjustments are necessary to a proper determination of cost. In determining any question as to the propriety of prices at which materials purchased specifically for the performance of a contract are charged as related to a reasonable market price, the market prices prevailing at the time of commitment for purchase shall govern. In any cases where the contractor's accounts do not cause transportation charges to follow cost of materials, the method of allocating such charges, whether through overhead or otherwise, must be equitable.

§ 7.71 *Excess material.* Material which has been charged to the cost of performing a contract, but is found in excess of actual requirement and not incorporated in the work shall, if returned to the vendor be credited at the reasonable value thereof allowed by the vendor and, if returned to stores or transferred to some other contract, shall be credited at its reasonable value for such purpose.

§ 7.72 *Scrap.* Scrap must be credited at the price obtained when sold, or at the current market price if used by the contractor or held for sale beyond the period of the contract. Such credits shall so far as practicable be to the job from which the scrap was derived, but if not capable of being so allocated may be taken into overhead at suitable intervals.

§ 7.73 *Castings.* Castings made in the contractor's own foundry may be charged upon fixed price per pound or other arbitrary basis, provided that the scale of prices take account, when appropriate, of differences in size and kind of castings, and that proper adjustments are made for the actual cost of castings as determined by reasonably frequent inventories of foundry materials or by other adequate foundry cost methods. The method of pricing foundry raw materials, particularly such higher cost materials as copper, spelter, aluminum, etc., must be consistent with the principles above prescribed for the pricing of materials generally.

§ 7.74 *Other independent material operations.* In cases where a contractor himself manufactures for stores or for direct charge to contracts items such as rivets, paint, acetylene, etc., such items may be charged upon a fixed price basis provided that proper adjustments are made either to the material charges or through overhead for the actual cost thereof as determined at reasonably frequent accounting intervals.

§ 7.8 *Overhead.* The following provisions apply to the distribution of overhead in determining profit hereunder:

§ 7.81 All charges which are not directly allocated to particular contracts, and constituting what is broadly regarded and herein referred to as "overhead," shall be distributed over all operations in such manner as will approximate as closely as practicable an accurate determination of cost. To that end the methods of distributing overhead must conform to sound accounting practice, and where more than one class of work is being performed must be such that no class of work is caused to bear appreciably any part of the indirect expense which should properly be borne by some other class of work.

§ 7.82 The distribution of the various classes of the shipbuilder's overhead equally over all or substantially all varieties of production work performed by the contractor will not ordinarily be accepted as in accordance with sound accounting practice unless the contractor shall show to the satisfaction of the Commission that such method results, under the conditions prevailing in his plant, in a substantially accurate determination of cost.

§ 7.83 The practice of determining separate departmental rates for overhead distribution applicable to the corresponding direct labor charges is allowable.

§ 7.84 Distribution of various classes of factory overhead otherwise than upon the basis of direct labor may be allowed if it be shown to the satisfaction of the Commission that a substantially equitable distribution is effected.

§ 7.85 The use of machine-hour rates or of standard or specification manufacturing costs properly determined is allowable.

§ 7.86 A differential distribution of overhead to various classes of work, as for example the use of a variety of fixed percentages suitably determined by periodic cost-engineering survey or by other acceptable means, so that each class of work bears its appropriate overhead rate may be allowed if it be shown to the satisfaction of the Commission that a substantially equitable distribution is thereby effected.

§ 7.87 In any case where, by the use of predetermined rates (whether departmental, machine-hour, differential, etc.) or otherwise the actual total of all indirect charges incurred in or allocable to a given month or other reasonably brief accounting period is not exactly absorbed, the under- or over-absorption must be distributed, either upon the same base or by such other method as will effect complete distribution currently and with substantial accuracy, provided however that the equalizing of seasonal expenses, as for example heating expenses, is permissible.

§ 7.88 In passing upon the general acceptability of the contractor's principles and methods of accounting, the Commission will inquire particularly into the contractor's method of overhead distribution and no change should be made therein during progress of the work without prior consultation with the Commission.

§ 7.9 *Special items.* The following provisions relate to special items of expense, whether constituting direct charges or accounted for through overhead:

§ 7.91 *Depreciation of plant facilities.* Depreciation of buildings, machinery, equipment, and other plant facilities will be taken into account in the determination of profit in general upon the basis of the schedule of rates of depreciation in current use by the contractor and taking into consideration the rates used by the Treasury Department for income tax purposes.

In the case of buildings, machinery, equipment and other plant facilities subject to depreciation which have been necessary to and used by the contractor in the construction of a vessel or vessels under contract with the Commission and which, during the performance of such contract or upon the completion thereof are demolished, dismantled, sold as used machinery or equipment or as scrap or, in the absence of a market therefor, are abandoned, in such manner and under such circumstances as shall establish the fact to the satisfaction of the Commission that such demolition, dismantlement, sale or abandonment is in good faith and not with a view to continued going shipbuilding plant use, the depreciation chargeable against the contractor's operations on account thereof may be redetermined upon the basis of the facts as to useful life and residual value as thus established, and the proportion of such depreciation as so redetermined applicable to contracts for Commission ship construction with respect to which a final determination of profit shall not theretofore have been made shall be taken into account in determining the shipbuilder's profit thereunder.

§ 7.92 *Major shipyard maintenance and repair costs* which are of such a nature and extent as under sound accounting practice are chargeable to depreciation reserve or capitalized may not be taken into account except through proper charges for depreciation. Job orders for such major plant and equipment maintenance or repairs should be submitted to the Commission's local auditor for his information, and determination made before such order is proceeded with or while it is in progress as to whether it may properly be charged to current operations. Major plant and equipment maintenance or repair expenditures, the

orders for which are not so submitted before or while the work is in progress, will be deemed to be capital expenditures or chargeable to depreciation reserve unless the contractor shall show otherwise to the satisfaction of the Commission.

§ 7.93 *Cost of dredging.* Where it is the established practice of the contractor to accrue a reserve for dredging and to charge to such reserve the cost of particular dredging operations necessary for launching or for the maintenance of depth of water at and for access to the shipyard, such accruals may be taken into account as part of the overhead to the extent that it shall be shown that such accruals represent a reasonable average of such expenses actually incurred over an appropriate period. Direct charges for dredging are allowable only when no such reserve is included in the contractor's established practice, and then only to such extent as may be reasonably allocated.

§ 7.94 *Drydocks.* Where the contractor uses his own drydock in the performance of the contract, it is allowable to base the charge to the contract for the use of such drydock upon the average cost of operation of the drydock, inclusive of maintenance, depreciation and taxes, as determined over a suitable accounting period not in excess of one year provided that the total such charge to the contract shall not exceed an amount determined by use of the prevailing commercial rate for similar services in the vicinity or where the nearest comparable services are available.

§ 7.95 *Towing.* Where the contractor uses his own tugs or other floating equipment in the performance of the contract, charges therefor applicable to the contract are allowable in accordance with the same principle as prescribed in the preceding rule with respect to owned-drydocks.

SECTION 8—FILING OF REPORTS

§ 8.1 *Contractors.*

§ 8.11 Shipbuilders and other contractors shall file with the Commission within sixty days after the delivery to the Commission of any ship constructed, reconditioned or reconstructed under a contract with the Commission or in the case of two or more vessels covered by contracts executed under the circumstances described in Section 5 of these regulations, within sixty days after delivery to the Commission of the last of such vessels, a preliminary report with respect to each contract, which need not be under oath but which otherwise shall be in the form prescribed from time to time by the Commission (see accompanying Form 6156) [2] setting forth the contract price and as accurately as can then be determined the total cost of performing the contract up to the date of delivery of the vessel (including an estimate of any additional costs then determinable), the amount of the shipbuilder's overhead charged to such cost, the net profit and such other information as is indicated upon the report form and shall attach thereto copies of all subcontracts which under these regulations are subject to the provisions of the Act.

§ 8.12 A final report, under oath, in the form prescribed from time to time by the Commission (see accompanying Form 6157) [2] shall be filed by the shipbuilder with respect to each such contract within sixty days after the expiration of the guarantee period prescribed by the contract or in the case of two or more vessels covered by contracts executed under the circumstances described in Section 5 of these regulations within sixty days after the expiration of the guarantee period prescribed for the last of such vessels, unless the time for filing such final report be extended by the Commission, which report shall likewise contain all the information indicated upon the prescribed report form, but copies of subcontracts and any other data originally filed with the preliminary report, if unchanged, may be incorporated by reference.

§ 8.2 *Subcontractors.*

§ 8.21 Each subcontractor whose subcontract in accordance with these regulations is "restricted" shall file with the Commission, within 60 days after the date upon which he is required to file his Federal income-tax return, a report, under oath, with respect to each such subcontract completed by him within the income-taxable year, setting forth in the form prescribed from time to time by the Commission (see accompanying Form 6158) [2] the total contract price, the total cost of performing the subcontract, the amount of overhead charged to such cost and such other information as indicated upon the report form.

§ 8.3 *Filing.* All reports, made by a shipbuilder or by a subcontractor, should be mailed to the United States Maritime Commission, Washington, D. C.

§ 8.4 *Revision of report forms.* The Commission may from time to time revise the form of reports herein required. Contractors and subcontractors about to file reports should obtain current forms from the Commission.

INFORMATION FOR CONTRACTORS AND SUBCONTRACTORS

A. Respecting Audits

§ A–1 In the case of shipbuilding contracts (i. e. contracts for the construction, reconditioning or reconstruction of a ship or ships) the Commission will ordinarily designate from time to time an auditor or auditors to be stationed at the shipyard of the contractor. In the case of major subcontracts, as for example subcontracts for the manufacture of propelling machinery, the Commission will ordinarily either station an auditor or auditors at the subcontractor's plant, or in its discretion, provide for periodic visits by its auditors.

§ A–2 In the case of other subcontracts, including subcontracts for materials or commodities of a general commercial character not especially designed or manufactured for the particular purpose of becoming a part of the ship or for materials or commodities with respect to which there is an established or readily ascertainable open market price, the Commission may in its discretion accept the sworn statement of a responsible officer in the form prescribed by it, setting forth the total contract price, the total cost of performing the contract, the total amount of overhead charged to such cost, the net profit and the percentage such net profit bears to the contract price, and certifying that the profit so reported is the true profit as reflected by the books of the subcontractor and is in accordance with recognized sound accounting practice and consistent with the principles of profit determination herein prescribed.

§ A–3 Subcontractors will, upon inquiry, be advised when practicable by the Commission as to whether it will cause a current audit to be made of such subcontractor's costs and profit, or will accept, subject to right of audit, the sworn statement of the subcontractor.

B. Respecting Determination of Value for Payment Purpose

§ B–1 Certain of the Commission's contracts provide for payment of the contract price at stated intervals based upon the percentage of the work completed; other contracts provide for progress payments according to a schedule of structural completion or materials delivered to the shipyard.

§ B–2 These contracts in general contain a proviso that payments made prior to the final payment shall not exceed in the aggregate a stated percentage of the value of the work done and materials delivered to the yard for the construction of the vessel.

§ B–3 In the latter case a double limitation is prescribed with respect to such progress payments: (a) The contractor may not receive payments except in accordance with the schedule set forth in the contract; and (b) the contractor may not receive payments even according to such schedule except in an amount which with prior payments shall not, in the aggregate, be in excess of the prescribed percentage of the value of the work done and materials delivered. However, whenever the progress under a contract has reached a point corresponding to a payment under the payment schedule, the contractor may apply for payment in an amount such that, added to prior payments, the prescribed percentage of the value of the work done and materials delivered is not exceeded, and if the amount payable under this limitation be less than the stage payment set forth in the schedule, then the contractor may from time to time apply for

[2] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the United States Maritime Commission.

additional part payments within the prescribed limitations.

§ B–4 The *Value* to the Commission of the work done and materials delivered for the construction of a vessel is measured by the contract price of the vessel, as adjusted from time to time on account of changes if any, and hence may be stated, in general, to be, at any time during the period of performance of the contract, the amount determined by multiplying such contract price by the percentage of completion.

§ B–5 A shipbuilder who has in effect at his shipyard a working method sufficiently detailed, by which he may at suitable intervals estimate the percentage of completion should submit an outline of such method, with supporting schedules, to the Commission. If approved, the contractor may base his applications for payments thereon to the extent consistent with the provisions of the contract and subject to such checks and independent determinations of value as the Commission may make or require, provided also that the contractor may, at any time, be required to modify or abandon such method as a basis of applications for payment if it shall be found by the Commission to be otherwise than a reasonably accurate approximation.

§ B–6 In determining the degree of completion, all materials delivered to the yard specifically destined for the construction of the vessel and to which title free of lien has been taken by the contractor may be included, but only such materials as are definitely part of ship construction (i. e. chargeable to cost of production under sound accounting practice and exclusive of any items properly chargeable to capital account) may be included. Direct charges actually paid such as premiums for performance and payment bonds, builder's risk insurance, etc., may be included as part of the value of the work done.

§ B–7 Since the Act contemplates that the price ultimately earned by the contractor shall not include a profit of more than one-tenth of the contract price, and since a profit so determined is equivalent to one-ninth of the contractor's complete cost of performing the contract, any value determination made at any stage in the progress of the work which departs materially from the accumulated cost plus one-ninth thereof will be subject to special scrutiny.

§ B–8 If the contractor fails to provide a suitable method of determining the percentage of completion satisfactory to the Commission, or if payments shall be due the contractor before such a method shall have been agreed upon, the determinations of value made by the Commission shall govern and for the purposes of such determination accumulated cost without profit may, at the discretion of the Commission, be used, but a determination based upon accumulated cost will not ordinarily be used beyond the first 25 percent of the contract price.

§ B–9 After 75 percent of the contract price has been paid with respect to any vessel, consideration may be given, in determining value, to estimates of the cost to complete the vessel.

[F. R. Doc. 39–2083; Filed, June 14, 1939; 3:46 p. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of June, A. D. 1939.

[File No. 57–7]

IN THE MATTER OF MEMPHIS POWER & LIGHT COMPANY, AND MEMPHIS GENERATING COMPANY

ORDER APPROVING APPLICATIONS

Memphis Power & Light Company, a subsidiary of National Power & Light Company, a registered holding company, having filed an application pursuant to Rule U–12F–1 for approval of the sale of certain utility assets to Memphis Generating Company, a newly organized and wholly owned subsidiary of said applicant; said applicant having also filed an application pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935 for approval of the acquisition by it of $5,049,000 aggregate par value of the common stock of said Memphis Generating Company; the latter company having filed an application under Section 6 (b) of said Act for an order exempting the issue and sale of said common stock to said Memphis Power & Light Company from the provisions of Section 6 (a) of said Act, such stock to be issued to the aggregate par value, subject to minor adjustments, of $4,988,134.75 for the assets to be transferred to the issuing company by Memphis Power & Light Company and to be issued, as to the remainder of said total par value of $5,049,000, for cash to be paid by Memphis Power & Light Company; a public hearing having been held, after appropriate notice,[1] upon said applications, as respectively amended, the Commission having examined the record therein and made its findings thereon:

It is ordered, Subject to the conditions hereinafter set forth:

(1) That the sale of utility assets by Memphis Power & Light Company to Memphis Generating Company, for which approval is sought by Memphis Power & Light Company in its application pursuant to Rule U–12F–1, be, and it is hereby approved;

(2) That the acquisition by Memphis Power & Light Company of the common stock of Memphis Generating Company of the aggregate par value of $5,049,000, for which approval is sought in the application of Memphis Power & Light Company filed pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935, be, and it is hereby approved;

(3) That the issue and sale of 50,490 shares of common stock of the aggregate par value of $5,049,000 by Memphis Generating Company be, and such issue and sale are hereby exempted from the provisions of Section 6 (a) of said Act, as prayed in the application of Memphis Generating Company filed pursuant to Section 6 (b) of said Act:

Provided, and this order is entered upon the following express conditions:

(a) That the issue, sale and acquisition of said common stock, the sale of said utility assets and all phases of the transaction to which such issue, sales and acquisition are incident, shall be in accordance with the terms of, and for the purposes represented by said applications;

(b) That if the express authorization of the issue and sale of said common stock by the Railroad and Public Utilities Commission of the State of Tennessee should be revoked, or otherwise terminated, the exemption hereby granted under Section 6 (b) of said Act of such issue and sale shall immediately terminate without further order of this Commission;

(c) That within ten days after the issue, sale and acquisition of said securities and the sale of said utility assets, the applicants shall respectively file with this Commission certificates of notification showing that such issue, sales and acquisition have been effected in accordance with the terms and conditions of, and for the purposes represented by, said applications.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39–2088; Filed, June 15, 1939; 10:53 a. m.]

[1] 4 F.R. 2041 DI.